

1 C. YONG JEONG, ESQ. (SBN 255244)
2 PAUL J. COHEN, ESQ. (SBN 293797)
3 DANIEL HOFFMAN, ESQ. (SBN 296794)
4 JEONG & LIKENS, L.C.
5 1055 W. 7TH Street, Suite 2280
6 Los Angeles, California 90017
7 Tel. 213-688-2001
8 Fax. 213-688-2002

9 Attorneys for Plaintiff UNICOLORS, INC.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 UNICOLORS, INC., a California Corporation,

13 Plaintiff,

14 vs.

15 RAINBOW USA, INC., a New York
16 Corporation; JUST ONE LLC, a New York
17 Limited Liability Company; and DOES 1-20,
18 inclusive,

19 Defendants.

Case Number: 2:15-CV-00324

PLAINTIFF'S COMPLAINT FOR:
1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

20 Plaintiff Unicolors, Inc. by and through its undersigned attorneys, hereby prays to this honorable
21 Court for relief and remedy based on the following:

22
23 **INTRODUCTION**

24 Plaintiff is a California-based company engaged in the apparel industry as a textile converter of
25 imported and domestic fabrications. Plaintiff creates, or purchases and obtains, exclusive rights
26 to unique two-dimensional graphic artworks for use on textiles and garments, and those textiles
27 and garments are transacted primarily in the fashion industry. Plaintiff owns these designs in
28 exclusivity and makes sales of products bearing these designs for profit. Plaintiff's business is

1 predicated on its ownership of these designs and it spends a considerable amount of time and
2 resources creating and obtaining top-quality, marketable and aesthetically-appealing designs.
3 Customers of Plaintiff, including possibly Doe defendants named herein, take design samples
4 with the understanding and agreement that they will only utilize Plaintiff to reproduce said
5 design should they wish to do so, and will not seek to make minor changes to Plaintiff's
6 proprietary work to reproduce the same elsewhere, yet use those design in furtherance of their
7 business in violation of both their contractual agreement with Plaintiff and Plaintiff's copyrights.
8 No other party is authorized to make sales of product bearing Plaintiff's proprietary design
9 without express permission from Plaintiff. This action is brought to recover damages for direct,
10 vicarious and contributory copyright infringement arising out of the misappropriation of
11 Plaintiff's exclusive designs by the Defendants, and each of them.

12 13 **JURISDICTION AND VENUE**

- 14 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. §101 *et seq.*
15 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a) and (b).
16 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) in that this is
17 the judicial district in which a substantial part of the acts and omissions giving rise to the
18 claims occurred.

19 20 **PARTIES**

- 21 4. Unicolors, Inc. ("Plaintiff") is a corporation organized and existing under the laws of the
22 State of California with its principal place of business located in the County of Los Angeles
23 at 3251 East 26th Street, Vernon, CA 90058.
24 5. Plaintiff is informed and believes and thereon alleges that Defendant Rainbow USA, Inc.
25 ("Rainbow") is, and at all times herein mentioned was, a corporation organized and existing
26 under the laws of New York with its principal place of business located at 1000 Pennsylvania
27 Avenue, Brooklyn, NY 11207, and is doing business in and with the state of California.
28

- 1 6. Plaintiff is informed and believes and thereon alleges that Defendant Just One LLC (“Just
2 One”) is, and at all times herein mentioned was, a limited liability company organized and
3 existing under the laws of New York with its principal place of business located at 1450
4 Broadway, 21st Floor, New York, NY 10018, and is doing business in and with the state of
5 California.
- 6 7. Named Defendants, and Does 1-20, may be collectively referred to as “Defendants.”
- 7 8. Plaintiff is informed and believes and thereon alleges that some of Defendants Does 1
8 through 3, inclusive, are manufacturers and/or vendors of garments to Defendants, which
9 Doe Defendants have manufactured and/or supplied and are manufacturing and/or supplying
10 garments comprised of fabric printed with Plaintiff’s copyrighted design(s) (as hereinafter
11 defined) without Plaintiff’s knowledge or consent or have contributed to said infringement.
12 The true names, whether corporate, individual or otherwise, and capacities of defendants
13 sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time, and therefore,
14 Plaintiff sues said defendants by such fictitious names. Plaintiff will seek leave to amend this
15 complaint to allege their true names and capacities when the same have been ascertained.
16 Plaintiff is informed and believes, and based thereon alleges, that each of defendants
17 designated as a Doe is responsible in some manner for the events alleged herein and the
18 damages caused thereby.
- 19 9. Defendants Does 4 through 20, inclusive, are other parties not yet identified who have
20 infringed Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s
21 copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true
22 names, whether corporate, individual or otherwise, and capacities of defendants sued herein
23 as Does 4 through 20 are presently unknown to Plaintiff at this time, and therefore, Plaintiff
24 sues said defendants by such fictitious names. Plaintiff will seek leave to amend this
25 complaint to allege their true names and capacities when the same have been ascertained.
- 26 10. Plaintiff is informed and believes and thereupon alleges that at all times relevant hereto each
27 of Defendants acted in concert with each other, was the agent, affiliate, officer, director,
28 manager, principal, alter-ego, and/or employee of the remaining defendants and was at all

1 times acting within the scope of such agency, affiliation, alter-ego relationship and/or
2 employment; and actively participated in or subsequently rarified and adopted, or both, each
3 and all of the acts or conducts alleged, with full knowledge of all the facts and circumstances,
4 including without limitation to full knowledge of each and every wrongful conduct and
5 Plaintiff's damages caused therefrom.

6
7 **CLAIMS RELATED TO DESIGN**

8 11. Plaintiff is the owner and author of a two-dimensional artwork called CMP1076(RT)
9 ("Subject Design")(Exhibit A).

10 12. Plaintiff applied for a copyright from the United States Copyright Office for the Subject
11 Design and was granted Registration No. VA 1-851-115 on December 14, 2012 (Exhibit B).

12 13. Plaintiff formatted the Subject Design for use on textiles, sampled the Subject Design, and
13 negotiated sales of fabric bearing the Subject Design.

14 14. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's authorization,
15 Defendants purchased, sold, manufactured, caused to be manufactured, imported and/or
16 distributed fabric and/or garments comprised of fabric featuring a design which is identical,
17 or substantially similar to, the Subject Design. A true and correct copy of such garments are
18 attached hereto as Exhibit C. Said garments include but are not limited to garments sold by
19 Rainbow bearing the label "OPPA" and RN 124027, which indicates that the garments were
20 manufactured by or for Just One.

21 15. At relevant times Defendants, and each of them, owned and controlled retail stores.
22 Plaintiff's investigation revealed that garments comprised of fabric bearing the Subject
23 Design were being offered for sale at Defendants' stores. Said garments were manufactured
24 and/or imported under the direction of the Defendants, and each of them.

25 16. None of the aforementioned transactions were authorized by Plaintiff, and all were in
26 violation of Plaintiff's intellectual property rights.

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2 **FIRST CLAIM FOR RELIEF**

3 (For Copyright Infringement – Against all Defendants, and Each)

4 17. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the
5 allegations contained in the preceding and following paragraphs of this Complaint.

6 18. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
7 accessed the Subject Design through, without limitation, the following: (a) access to
8 Plaintiff's design library; (b) access to authorized or unauthorized reproductions in the
9 possession of other vendors and/or Doe Defendants; and (c) access to Plaintiff's strike-offs,
10 swatches, paper CADs and samples.

11 19. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
12 infringed Plaintiff's copyright by importing, creating, making and/or developing directly
13 infringing and/or derivative works from the Subject Design and by importing, producing,
14 distributing and/or selling infringing garments through a nationwide network of retail stores,
15 catalogues, and online websites.

16 20. Due to Defendants' acts of infringement, Plaintiff has suffered substantial damages to its
17 business in an amount to be established at trial.

18 21. Due to Defendants' acts of infringement, Plaintiff has suffered general and special damages
19 to its business in an amount to be established at trial.

20 22. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of
21 them, have obtained direct and indirect profits they would not otherwise have realized but for
22 their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of
23 Defendants' profits directly and indirectly attributable to Defendants' infringement of the
24 Subject Design in an amount to be established at trial.

25 23. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
26 have committed acts of infringement alleged herein with actual or constructive knowledge of
27 Plaintiff's rights such that Plaintiff is entitled to a finding of willful infringement.

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3 **SECOND CLAIM FOR RELIEF**

4 (For Vicarious and/or Contributory Copyright Infringement – Against All Defendants)

5 24. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the
6 allegations contained in the preceding and following paragraphs of this Complaint.

7 25. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
8 knowingly induced, participated in, aided and abetted in and resultantly profited from the
9 illegal reproduction, importation, purchase, distribution and/or sales of product featuring the
10 Subject Design as alleged herein above.

11 26. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are
12 vicariously liable for the infringement alleged herein because they had the right and ability to
13 supervise the infringing conduct and because they had a direct financial interest in the
14 infringing product.

15 27. By reason of the Defendants', and each of their, acts of contributory and/or vicarious
16 infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial
17 damages to its business in an amount to established at trial, as well as additional general and
18 special damages in an amount to be established at trial.

19 28. Due to Defendants' acts of contributory and/or vicarious copyright infringement as alleged
20 herein, Defendants, and each of them, have obtained direct and indirect profits they would
21 have not otherwise realized but for their infringement of the Subject Design. As such,
22 Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable
23 to Defendants' infringement of the Subject Design, an amount to be established at trial.

24 29. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
25 have committed acts of infringement alleged herein with actual or constructive knowledge of
26 Plaintiff's rights such that Plaintiff is entitled to a finding of willful infringement.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

- 1 1. That Defendants, their agents and servants be enjoined from infringing Plaintiff's
- 2 copyrights in any manner;
- 3 2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, the
- 4 exact sum to be proven at time of trial, or, if elected before final judgment, statutory
- 5 damages as available under the Copyright Act, 17 U.S.C. § 101 *et seq.*;
- 6 3. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act, 17
- 7 U.S.C. § 101 *et seq.*;
- 8 4. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 9 5. That Plaintiff be awarded costs of litigation; and
- 10 6. That Plaintiff be awarded such further legal and equitable relief as the Court deems
- 11 proper.

12
13 **DEMAND FOR TRIAL BY JURY**

14 Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of Civil Procedure
15 38 and the Seventh Amendment of the Constitution.

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18 Dated: January 15, 2015

19 Respectfully submitted,

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21 **/s/ C. Yong Jeong**

22 C. Yong Jeong, Esq.

23 Paul J. Cohen, Esq.

24 Daniel D. Hoffman, Esq.

25 Attorneys for Plaintiff Unicolors, Inc.